

NINTH DAY

Legislative Chamber, Lincoln, Nebraska,
Thursday, January 11, 1940.

The Legislature met at 10:00 a. m. President Johnson presiding.

Prayer was offered by The Reverend O. J. Burckhardt of Lincoln.

The roll was called and all members were present except John Adams, Jr., and except Mr. Carlson and Mr. Westley who were excused.

The Journal for the Eighth Day was approved as corrected.

Communications

A letter was read from Anna M. Nelson of Oakland, Nebraska, regarding State Assistance.

STANDING COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL NO. 3. Correctly engrossed.

(Signed) Craven, Chairman.

RESOLUTIONS

REPORT—Committee Memorial to Former Members

Mr. President: Your special committee charged with the duty of preparing a resolution in memory of the former members of the Legislature who have died since June 7, 1939, asks leave to report as follows:

LEGISLATIVE RESOLUTION NO. 7. In Memory of Former Members**RESOLUTION RESPECTING THE MEMORIES OF**

Pelham A. Barrows	George L. Day
Lulun C. Gibson	John J. Hughes
P. A. Murphy	Richard S. Norval
Ernest M. Pollard	E. H. Sorensen
William T. Thompson	Simon Carleton Ayer

Pelham A. Barrows was born in Carver, Massachusetts, March 13th, 1861, and came to Nebraska in 1878, where he became a farmer, cattleman and newspaper publisher. He held many county and state offices, and served as Lieutenant Governor from 1918 to 1922. His many friends in Nebraska were grieved to learn of his death in Maywood, California, on December 21, 1939.

George L. Day was a pioneer resident and business man of Nuckolls County, had served as mayor of Superior, held many civic offices in his community, and was a member of the State Senate in 1903. His death in Superior, July 20, 1939, brought sorrow to his friends and relatives.

Lulun C. Gibson, respected businessman for forty-five years, and State Senator in 1905 and 1907, died at his home in Omaha, October 1, 1939, at the age of seventy-six. His was an active and useful life.

John J. Hughes, for sixty-nine years a resident of Battle Creek, Nebraska, former County Commissioner of Madison County, and member of the House of Representatives in 1917, died at his home in Battle Creek June 24th, 1939, at the age of eighty-two.

P. A. Murphy was born in County Cork, Ireland, and came to Nebraska in 1870. Mr. Murphy was a pioneer homesteader and nurseryman in Fillmore County, held many offices of honor and trust among his fellow-citizens, and served in the House of Representatives in 1907 and 1909. His death in Exeter, August 29th, 1939, brought to a close a colorful and useful life.

Richard S. Norval, born on a farm near London Mills, Illinois, in 1849, and a graduate of the University of Michigan Law School, settled in Seward, Nebraska, in 1872, where he practiced law for sixty-seven years. Throughout this period, he was a leader in state and local affairs, serving as a delegate to the Republican National Convention in 1888, a delegate to the State Constitutional Convention in 1919-1920, and a member of the State Senate in 1889 and in 1921, being chosen president of the Senate in the latter year. Mr. Norval died in Seward on November 14, 1939, at the age of ninety.

Ernest M. Pollard was born in Nebraska, of pioneer parents, in 1869. A graduate of the University of Nebraska, and a well known horticulturist, Mr. Pollard was a member of the House of Representatives in 1897 and 1899, served in Congress from 1905 to 1909, was a delegate to the Constitutional Convention of 1919-1920, and was head of the Department of Welfare and Labor during the administration of Governor Weaver. His death in Lincoln, September 23, 1939, brought great loss to his friends and relatives, and to the State which he had served.

E. H. Sorensen, pioneer business man of St. Paul, Nebraska, and member of the House of Representatives in 1931, died at his home in St. Paul, December 17, 1939, after a three-weeks illness. He leaves many sorrowing friends and relatives.

William T. Thompson, born in Iowa, and a graduate of Simpson College, came to Nebraska in 1885. He was elected County Attorney of Merrick County in 1888, was a member of the House of Representatives in the sessions of 1899 and 1903, served as Deputy Attorney General and Attorney General of the State, resigning the latter position in 1910 to become Solicitor of the United States Treasury, in which capacity he served until 1913. Mr. Thompson's long and honorable life came to a close in Lincoln on June 21, 1939, where he died at the age of seventy-nine.

Simon Carleton Ayer died at Omaha on January 7, 1940, at the age of 92 years. He served in the Nebraska Legislature during the Session of 1881 and later was County Clerk and Clerk of the District Court of Buffalo County, Nebraska. He later served for many years as Union Pacific Railroad right-of-way agent. He rendered loyal service both in his public and private life.

WHEREAS it is the desire of this body to pay tribute to the memories of the departed members of previous Legislatures, NOW THEREFORE,

BE IT RESOLVED BY THE LEGISLATURE IN FIFTY-FOURTH (EXTRAORDINARY) SESSION ASSEMBLED:

1. That, as a people may without vanity take pride in its traditions and institutions, and may with appropriate humility revere its departed leaders, we pause in our deliberations today to honor the memories of those who preceded us here, and who, often in the face of cruel adversity, and sometimes, perhaps, despite limited vision, played a notable part in shaping the destiny of our State, and in bequeathing to us the political and social institutions which we cherish.

2. That the Clerk of the Legislature be directed to spread at large upon the Legislative Journal this Resolution, and that a copy of said

Resolution, properly authenticated, and suitably engrossed, be sent by the Clerk to each of the bereaved families of the deceased members of the Nebraska Legislature, above named, as an expression of our reverence for the deceased and our sympathy for the bereaved.

Special Committee On Memorial Resolutions

(Signed) Harry E. Gantz	Swan Carlson	-
Chairman		
	Frank Sorrell	
Sam Klaver	M. E. Westley	

MOTION—To Suspend Rules and Adopt L. R. No. 7

Mr. President: I move that the rules be suspended and that Legislative Resolution No. 7 be adopted. Gantz

The motion prevailed with 36 ayes, no nays, 7 not voting.

The Legislature paused in its deliberations for a moment to pay silent tribute to the memory of departed former members.

Request for Unanimous Consent

Mr. Lambert requested unanimous consent to amend the Journal for the Third Day.

Objection was raised by Mr. Mekota.

MOTION—To Reconsider Action

Mr. President: I move that the rules be suspended and that we reconsider our action on Legislative Resolution No. 3. Lambert

The motion prevailed with 32 ayes, no nays, 11 not voting.

MOTION—To Amend

Mr. President: I move that Legislative Resolution No. 3 be amended as follows:

In the first paragraph of the preamble strike the words "wasteful, costly, inefficient and bunglesome, and in many instances unsanitary" and insert in lieu thereof the words "more costly to the United States of America, to the State of Nebraska and to the several counties of the states participating". Lambert

The motion prevailed.

MOTION—To Adopt

Mr. President: I move that Legislative Resolution No. 3, as amended, be adopted. Lambert

MOTION—To Indefinitely Postpone

Mr. President: I move that L. R. No. 3 be indefinitely postponed. (Signed) Mekota.

The motion was lost.

Mr. Lambert's motion prevailed and the resolution was adopted as amended.

Special Order of Business

At 10:30 a. m. Mr. Gantz asked that L. R. No. 6 be passed over.

So ordered.

MOTION—To Suspend Rules

Mr. President: I move that the rules be suspended and that we consider L.B. No. 4 and L.B. No. 5 on Third Reading File. Von Seggern.

The motion prevailed with 36 ayes, no nays, 7 not voting.

BILLS ON THIRD READING

The following bills were read the third time and put upon passage:

LEGISLATIVE BILL NO. 4. With emergency clause

A bill for an Act to provide in what manner, and in what Court, suits shall be brought against the state and governmental agencies created by the state, upon claims for compensation benefits under the Nebraska Workmen's Compensation Law; to provide for service of summons upon the state in such suits against the state and entry of voluntary appearances therein; to provide for service of summons upon governmental agencies created by the state, when not otherwise provided by law; and to declare an emergency.

Whereupon the president stated: "All provisions of law relative to procedure having been complied with, the question is 'shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 39:

Adams, E.A.	Garber	Mekota	Rossiter
Ashmore	Gross	Miller	Schultz
Brady	Gutoski	Mischke	Sorrell
Brodecky	Hall	Mueller	Thomas, Amos
Callan	Herrick	Murphy	Thomas, Ray
Craven	Howard	Neubauer	Thornton
Diers	Johnson	Norman	Tvrdik
Doyle	Johnston	Peterson	Van Diest
Dunn	Klaver	Reavis	Von Seggern
Gantz	Lambert	Reed	

Voting in the negative, 0.

Not voting, 4:

Adams, J. Jr.	Carlson	Carsten	Westley
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A constitutional two-third majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Statement for Journal

Mr. President: Had I been present I would have voted for Legislative Bill No. 4. (Signed) Carsten

LEGISLATIVE BILL NO. 5. With emergency clause

A Bill for an Act to amend Section 48-702, C. S. Supp., 1939, relating to labor and unemployment compensation; to define certain terms and words used in The Unemployment Compensation Law; to repeal said Section 48-702, C. S. Supp., 1939, as now existing; and to declare an emergency.

Whereupon the president stated: "All provisions of law relative to procedure having been complied with, the question is 'shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 40:

Adams, E.A.	Gantz	Lambert	Reed
Ashmore	Garber	Mekota	Rossiter
Brady	Gross	Miller	Schultz
Brodecky	Gutoski	Mischke	Sorrell
Callan	Hall	Mueller	Thomas, Amos
Carsten	Herrick	Murphy	Thomas, Ray
Craven	Howard	Neubauer	Thornton
Diers	Johnson	Norman	Tvrdik
Doyle	Johnston	Peterson	Van Diest
Dunn	Klaver	Reavis	Von Seggern

Voting in the negative, 0.

Not voting, 3:

Adams, J. Jr.	Carlson	Westley
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

RESOLUTIONS

LEGISLATIVE RESOLUTION NO. 6. Mr. Gantz moved that L. R. No. 6 be adopted.

The motion prevailed and the resolution was adopted.

BILLS ON THIRD READING

LEGISLATIVE BILL NO. 2. MOTION—To Place on Select File.

Mr. President: I move to return L.B. No. 2 to Select File for the following specific amendments:

That all amendments heretofore adopted to L.B. No. 2 be stricken and that the original bill No. 2 be amended as follows:

1. Amend Section 1, original bill, page 1, line 23 (printed bill, page 1, line 17) by inserting the words "in such county" after the word "estate" and before the word "owned"; and amend original bill, page 1, line 25 (printed bill, page 1, line 17) by inserting the words "if the name of the spouse is stated in the lien filed," after the word and punctuation "spouse,".

2. Amend Section 2, original bill and printed bill by striking all of section 2 and inserting in lieu thereof the following:

"Sec. 2. That Sec. 68-270, C.S. Supp., 1939, be amended to read as follows:

68-270. The Board shall satisfy and release the claims, accruing under the provisions of Section 12 (68-268) of this Act, when fully paid, or when compromised and settled, or when the estate has been probated and the proceeds allowable have been applied on such claims. The county in which the recipient had legal settlement at the time assistance payments were made may fully release such claims and liens when paid, or it may release such liens for the purpose of clearing the title to the real estate involved when it appears to it that a recovery thereunder is not probable. Each release shall be signed in the name of the county by the chairman of the Board of County Commissioners or Supervisors after he is authorized by vote of such board: provided, that notwithstanding any other general or specific law, the register of deeds or the county clerk, as the case may be, shall not charge a fee for filing releases of said liens."

3. Amend Section 3, original bill, page 2, line 23 (printed bill, page 3, line 16) by inserting the words "in such county" after the word "estate" and before the word "owned" therein; and original bill, page 3, line 26 (printed bill, page 3, line 18) by inserting after the word and punctuation "records." and before the word "The" the following: "No lien shall attach to real estate owned by the spouse of a recipient unless the name of the spouse appears in the certificate filed."

4. Amend the original bill and printed bill by striking therefrom all of Section 4 and inserting in lieu thereof the following:

"Sec. 4. That Sec. 68-416, C.S. Supp., 1939, be amended to read as follows:

68-416. The Board shall release liens, accruing under the provisions of this Act, when fully paid, when compromised and settled, or when the estate of which real estate and personal property affected by this Act are a part, has been probated and the proceeds allowable have been applied on such liens. The county in which the recipient had legal settlement at the time assistance payments were made may fully release such claims and liens when paid, or it may release such liens for the purpose of clearing the title to the real estate involved when it appears to it that a recovery thereunder is not probable. Each release shall be signed in the name of the county by the chairman of the Board of County Commissioners or Supervisors after he is authorized by vote of such board: Provided, that notwithstanding any other general or

specific law, the register of deeds or the county clerk, as the case may be, shall not charge a fee for filing releases of said liens."

(Signed) Callan

After discussion Mr. Norman moved the previous question.

The motion prevailed.

Vote was taken and Mr. Callan's motion prevailed with 27 ayes, 3 nays, 13 not voting.

Placed on Select File with Specific amendments.

Members Excused

Messrs. Miller, Brady, Ashmore, Hall, Garber and Neubauer were excused for the afternoon session.

Select File

LEGISLATIVE BILL NO. 2. Mr. Von Seggern moved that the Specific amendments above set out be adopted.

Mr. Gutoski asked unanimous consent to amend the bill.

Objection was raised.

Vote was taken on Mr. Von Seggern's motion and the Specific amendments were adopted.

Mr. Gutoski asked unanimous consent to offer Specific amendments.

No objection was raised.

Mr. Gutoski offered Specific amendments and moved their adoption.

The motion was lost with 7 ayes, 19 nays, 17 not voting.

Referred to E and R for engrossment.

Recess

At 1:15 p.m. on motion by Mr. Lambert the Legislature recessed until 3:15 p.m.

After Recess

The Legislature reconvened at 3:15 p.m. Speaker Diers presiding.

The roll was called and all members were present except John Adams, Jr., and except Messrs. Ashmore, Brady, Carlson, Garber, Hall, Miller, Neubauer, Schultz and Westley who were excused.

STANDING COMMITTEE REPORT**Enrollment and Review**

LEGISLATIVE BILL NO. 2. Placed on Select File with amendments.

E and R amendments to L.B. No. 2:

I. Amend original bill, Title, lines 1 and 2 (printed bill, lines 1 and 2) by striking therefrom the words, figures and punctuation "Sections 68-268, 68-270, 68-413 and 68-416 Compiled Statutes, Supplement 1939," and inserting in lieu thereof the words, figures and punctuation "Secs. 68-268, 68-270, 68-413 and 68-416, C. S. Supp., 1939,"; and amend original bill, Title, line 6 (printed bill, line 6) by inserting after the word and punctuation "attach;" the words and punctuation "to designate the property to which the lien may attach;"

II. Amend the General File amendment by Senator Von Seggern, adopted January 11, 1940, by underscoring all new matter inserted in the bill.

III. Amend Section 5, original bill and printed bill, by striking therefrom all of Section 5 and inserting in lieu thereof as follows:

"Sec. 5. That said original Secs. 68-268, 68-270, 68-413 and 68-416, C. S. Supp., 1939, are hereby repealed."; amend the original bill, Section 1 and 3, lines 1, 2 and 3 (printed bill, lines 1, 2 and 3) by striking therefrom all of lines 1 and 2 in each section and the quotation marks at the beginning of Section 1, line 3, and insert in lieu thereof as follows:

"Section 1. That Sec. 68-268, C.S. Supp., 1939, be amended to read as follows:

68-268."

"Sec. 3. That Sec. 68-413, C. S. Supp., 1939, be amended to read as follows:"

(Signed) Craven, Chairman.

Request to Consider

Mr. Craven asked unanimous consent to consider L.B. No. 2 on Select File.

No objection was raised. So ordered.

SELECT FILE

LEGISLATIVE BILL NO. 2. E and R amendments found in this day's Journal were adopted.

Referred to E and R for engrossment.

At 4:00 p.m. the Chair declared the Legislature at ease until 4:30 p.m.

At 4:50 p.m. the Legislature was called to order by Mr. Amos Thomas.

MOTION—To Return L. B. No. 3 to Select File

Mr. Tyrdik moved to return L.B. No. 3 to Select File for specific amendment.

The motion was lost with 8 ayes, 19 nays, 16 not voting.

STANDING COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL NO. 2. Correctly reengrossed.

LEGISLATIVE BILL NO. 4. Correctly enrolled.

(Signed) Craven, Chairman.

Adjournment

At 5:15 p.m. Mr. Mueller moved that the rules be suspended and that the Legislature adjourn until 10:00 a.m. Friday, January 12.

The motion prevailed with 30 ayes, no nays, 13 not voting.

Hugo F. Srb,
Clerk of the Legislature.